

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

15 JAN -5 PM 5:10

OFFICE OF THE CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TIMOTHY DeFOGGI,

Defendant.

8:13CR105

NOTICE OF RIGHT TO APPEAL IN CRIMINAL CASES AND COUNSEL'S
ACKNOWLEDGMENT AND RECEIPT OF 8th CIRCUIT'S RULE 27C

COUNSEL'S ACKNOWLEDGMENT AND RECEIPT OF 8th CIRCUIT'S RULE 27C

RULE 27C: FILING NOTICES OF APPEAL AND MOTIONS TO WITHDRAW IN CRIMINAL CASES

(a) **Notices of Appeal.** Retained counsel in criminal cases, and counsel appointed to represent a party pursuant to the provisions of the Criminal Justice Act, 18 U.S.C. § 3006A, Federal Rule of Criminal Procedure 44, or the inherent power of a federal court, shall file a notice of appeal upon their client's request. Defendant's trial counsel, whether retained or appointed, shall represent the defendant on appeal, unless the Court of Appeals grants permission to withdraw.

(b) **Motions to Withdraw.** A motion to withdraw on the ground that in counsel's opinion there are no non-frivolous issues to be urged on appeal must be accompanied by a brief prepared in accordance with the procedures enunciated in Anders v. California, 386 U.S. 738 (1967), and Robinson v. Black, 812 F.2d 1084 (8th Cir. 1987). A motion to withdraw on any other ground will only be granted for good cause shown, and will rarely be granted unless another attorney has entered an appearance for the defendant on appeal or another attorney has agreed to represent the defendant on appeal and the defendant has consented to the appearance of that new attorney.

As defense counsel, I acknowledge receipt of 8th Circuit's Rule 27C.



**NOTICE OF RIGHT TO APPEAL IN CRIMINAL CASES
(READ WITH CARE)**

TO: Each defendant and his/her counsel:

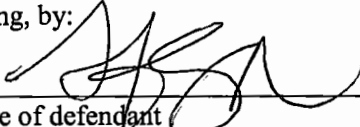
(1) Unless a defendant has given up his or her right to appeal (for example, by signing a waiver in a plea agreement approved by the court), you are notified that every defendant has a right to appeal. Appeal means to have a defendant's conviction or sentence reviewed by a higher court. A conviction may be appealed because it was obtained in violation of the law. A sentence may be appealed because it was imposed in violation of the law. If a defendant was convicted after a trial, the defendant may appeal the conviction and the sentence. If a defendant was sentenced after a plea of guilty or "no contest," the right to appeal is generally limited to appealing the sentence.

(2) To start an appeal, a notice of appeal must be filed with the Clerk of the United States District Court for the District of Nebraska. A defendant may file the notice of appeal. Also, if the defendant tells his or her lawyer to file the notice of appeal, the lawyer is obligated to do so. In addition, if a defendant tells a court clerk to file the notice of appeal, the court clerk is required to do so.


(3) A notice of appeal must be timely filed in the district court, generally within 14 days after the entry of the judgment or order from which an appeal is taken. This normally means that a notice of appeal must be filed in the district court within 14 days of today's date. If the notice of appeal is not timely filed, a defendant may lose his or her right to appeal.

(4) Every defendant who is unable to pay the expenses of an appeal has the right to apply for permission to appeal without payment of a filing fee or costs. In addition, every defendant who is unable to pay for a lawyer may apply for the appointment of lawyer to represent the defendant during the appeal at no cost to the defendant. In other words, even though a defendant is poor, the defendant's poverty need not prevent an appeal.

Receipt of the foregoing notice is acknowledged on January 5, 2015, immediately after sentencing, by:



Signature of defendant



Signature of defense counsel

(The deputy clerk of the court is directed to give a copy of this notice to each defendant and his/her counsel immediately **after** sentencing. The deputy clerk of the court shall then set forth in a copy of the notice the date the notice was given. The deputy clerk shall then procure the signature of the defendant and his/her counsel on a copy of the notice. The signed copy of the notice shall then be filed in the court file by the deputy clerk.)

(redrafted by rgk in May, 2007)